

103D CONGRESS
1ST SESSION

S. 420

To amend section 207 of title 18, United States Code, to tighten the restrictions on former executive and legislative branch officials and employees.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 24 (legislative day, JANUARY 5), 1993

Mr. BOREN (for himself, Mr. MCCAIN, Mr. BRYAN, Mr. FEINGOLD, and Mr. CAMPBELL) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

To amend section 207 of title 18, United States Code, to tighten the restrictions on former executive and legislative branch officials and employees.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Ethics in Government
5 Reform Act of 1993”.

6 **SEC. 2. SPECIAL RULES FOR HIGHLY PAID EXECUTIVE AP-**

7 **POINTEES AND MEMBERS OF CONGRESS AND**

8 **HIGHLY PAID CONGRESSIONAL EMPLOYEES.**

9 (a) IN GENERAL.—

1 (1) APPEARANCES BEFORE AGENCY.—(A) Sec-
2 tion 207(d) of title 18, United States Code, is
3 amended by adding at the end thereof the following:

4 “(3) RESTRICTIONS ON POLITICAL AP-
5 POINTEES.—(A) In addition to the restrictions set
6 forth in subsections (a), (b), and (c) and paragraph
7 (1) of this subsection, any person who—

8 “(i) serves in the position of Vice President
9 of the United States; or

10 “(ii) is a full-time, noncareer Presidential,
11 Vice Presidential, or agency head appointee in
12 an executive agency whose rate of basic pay is
13 not less than \$70,000 (adjusted for any COLA
14 after the date of enactment of the Ethics in
15 Government Reform Act of 1993) and is not an
16 appointee of the senior foreign service or solely
17 an appointee as a uniformed service commis-
18 sioned officer,

19 and who, after the termination of his or her service
20 or employment as such officer or employee, know-
21 ingly makes, with the intent to influence, any com-
22 munication to or appearance before any officer or
23 employee of a department or agency in which such
24 person served within 5 years before such termi-
25 nation, during a period beginning on the termination

1 of service or employment as such officer or employee
2 and ending 5 years after the termination of service
3 in the department or agency, on behalf of any other
4 person (except the United States), in connection
5 with any matter on which such person seeks official
6 action by any officer or employee of such depart-
7 ment or agency, shall be punished as provided in
8 section 216 of this title.

9 “(B) In addition to the restrictions set forth in
10 subsections (a), (b), and (c) and paragraph (1) of
11 this subsection, any person who is listed in Schedule
12 I under section 5312 of title 5, United States Code,
13 or is employed in a position in the Executive Office
14 of the President and is a full-time, noncareer Presi-
15 dential, Vice Presidential, or agency head appointee
16 in an executive agency whose rate of basic pay is not
17 less than \$70,000 (adjusted for any COLA after the
18 date of enactment of the Ethics in Government Re-
19 form Act of 1993) and is not an appointee of the
20 senior foreign service or solely an appointee as a
21 uniformed service commissioned officer, and who—

22 “(i) after the termination of his or her
23 service or employment as such employee, know-
24 ingly makes, with the intent to influence, any
25 communication to or appearance before any of-

1 ficer or employee of a department or agency
2 with respect to which the person participated
3 personally and substantially within 5 years be-
4 fore such termination, during a period begin-
5 ning on the termination of service or employ-
6 ment as such employee and ending 5 years after
7 the termination of substantial personal respon-
8 sibility with respect to the department or agen-
9 cy, on behalf of any other person (except the
10 United States), in connection with any matter
11 on which such person seeks official action by
12 any officer or employee of such department or
13 agency; or

14 “(ii) within 2 years after the termination
15 of his or her service or employment as such em-
16 ployee, knowingly makes, with the intent to in-
17 fluence, any communication to or appearance
18 before any person described in paragraph
19 (2)(B) on behalf of any other person (except
20 the United States), in connection with any mat-
21 ter on which such person seeks official action by
22 the person described in paragraph (2)(B),
23 shall be punished as provided in section 216 of this
24 title.”.

1 (B) The first sentence of section 207(h)(1) of
2 title 18, United States Code, is amended by insert-
3 ing after “subsection (c)” the following: “and sub-
4 section (d)(3)”.

5 (2) FOREIGN AGENTS.—Section 207(f) of title
6 18, United States Code, is amended by—

7 (A) redesignating paragraph (2) as para-
8 graph (4);

9 (B) adding after paragraph (1) the follow-
10 ing:

11 “(2) SPECIAL RESTRICTIONS.—Any person
12 who—

13 “(A)(i) serves in the position of Vice Presi-
14 dent of the United States;

15 “(ii) is a full-time, noncareer Presidential,
16 Vice Presidential, or agency head appointee in
17 an executive agency whose rate of basic pay is
18 not less than \$70,000 (adjusted for any COLA
19 after the date of enactment of the Ethics in
20 Government Reform Act of 1993) and is not an
21 appointee of the senior foreign service or solely
22 an appointee as a uniformed service commis-
23 sioned officer;

24 “(iii) is employed in a position in the Exec-
25 utive Office of the President and is a full-time,

1 noncareer Presidential, Vice Presidential, or
2 agency head appointee in an executive agency
3 whose rate of basic pay is not less than \$70,000
4 (adjusted for any COLA after the date of en-
5 actment of the Ethics in Government Reform
6 Act of 1993) and is not an appointee of the
7 senior foreign service or solely an appointee as
8 a uniformed service commissioned officer; or

9 “(iv) is a Member of Congress or employed
10 in a position by the Congress at a rate of pay
11 equal to or greater than \$70,000 (adjusted for
12 any COLA after the date of enactment of the
13 Ethics in Government Reform Act of 1993);
14 and

15 “(B) after such service or employment—

16 “(i) represents a foreign national (as
17 defined in section 319(b) of the Federal
18 Election Campaign Act of 1971 (2 U.S.C.
19 441e(b)) before any officer or employee of
20 any department or agency of the United
21 States with the intent to influence a deci-
22 sion of such officer or employee in carrying
23 out his or her official duties; or

24 “(ii) aids or advises a foreign national
25 (as defined in section 319(b) of the Fed-

1 eral Election Campaign Act of 1971) with
2 the intent to influence a decision of any of-
3 ficer or employee of any department or
4 agency of the United States, in carrying
5 out his or her official duties,
6 shall be punished as provided in section 216 of this
7 title.”.

8 “(3) EMPLOYMENT BY A FOREIGN GOVERN-
9 MENT.—Any person who—

10 “(A)(i) serves in the position of President
11 or Vice President of the United States;

12 “(ii) serves as a Governor of the Federal
13 Reserve;

14 “(iii) is a full-time, noncareer Presidential,
15 Vice Presidential, or agency head appointee in
16 an executive agency whose rate of basic pay is
17 not less than \$70,000 (adjusted for any COLA
18 after the date of enactment of the Ethics in
19 Government Reform Act of 1993) and is not an
20 appointee of the senior foreign service or solely
21 an appointee as a uniformed service commis-
22 sioned officer;

23 “(iv) is employed in a position in the Exec-
24 utive Office of the President and is a full-time,
25 noncareer Presidential, Vice Presidential, or

1 agency head appointee in an executive agency
 2 whose rate of basic pay is not less than \$70,000
 3 (adjusted for any COLA after the date of en-
 4 actment of the Ethics in Government Reform
 5 Act of 1993) and is not an appointee of the
 6 senior foreign service or solely an appointee as
 7 a uniformed service commissioned officer; or

8 “(v) is a Member of Congress; and

9 “(B) after such service or employment re-
 10 ceives anything of value from a foreign govern-
 11 ment,

12 shall be punished as provided in section 216 of this
 13 title.”.

14 (3) TRADE NEGOTIATORS.—Section 207(b)(1)
 15 of title 18, United States Code, is amended by—

16 (A) inserting “(A)” after “IN GENERAL.—
 17 ”; and

18 (B) adding at the end thereof the follow-
 19 ing:

20 “(B) For any person who—

21 “(i) is a full-time, noncareer Presidential,
 22 Vice Presidential, or agency head appointee in
 23 an executive agency whose rate of basic pay is
 24 not less than \$70,000 (adjusted for any COLA
 25 after the date of enactment of the Ethics in

1 Government Reform Act of 1993) and is not an
2 appointee of the senior foreign service or solely
3 an appointee as a uniformed service commis-
4 sioned officer;

5 “(ii) is employed in a position in the Exec-
6 utive Office of the President, and is a full-time,
7 noncareer Presidential, Vice Presidential, or
8 agency head appointee in an executive agency
9 whose rate of basic pay is not less than \$70,000
10 (adjusted for any COLA after the date of en-
11 actment of the Ethics in Government Reform
12 Act of 1993) and is not an appointee of the
13 senior foreign service or solely an appointee as
14 a uniformed service commissioned officer; or

15 “(iii) is a Member of Congress or employed
16 in a position by the Congress at a rate of pay
17 equal to or greater than \$70,000 (adjusted for
18 any COLA after the date of enactment of the
19 Ethics in Government Reform Act of 1993),

20 the restricted period after service referred to in sub-
21 paragraph (A) shall be permanent.”.

22 (4) CONGRESS.—Section 207(e) of title 18,
23 United States Code, is amended—

24 (A) in paragraph (1)(A) by striking “with-
25 in 1 year” and inserting “within 2 years”;

1 (B) in paragraph (1) by adding at the end
2 thereof the following:

3 “(D) Any person who is a Member of Con-
4 gress and who, within 5 years after leaving the
5 position, knowingly makes, with intent to influ-
6 ence, any communication to or appearance be-
7 fore any committee member or a staff member
8 of any committee over which the Member had
9 jurisdiction, on behalf of any other person (ex-
10 cept the United States) in connection with any
11 matter on which such former Member seeks ac-
12 tion by the committee member or a staff mem-
13 ber of the committee in his or her official ca-
14 pacity, shall be punished as provided in section
15 216 of this title.”;

16 (C) by redesignating paragraphs (6) and
17 (7) as paragraphs (7) and (8), respectively; and

18 (D) by inserting after paragraph (5) the
19 following new paragraph:

20 “(6) HIGHLY PAID STAFFERS.—For any person
21 described in paragraph (2), (3), (4), or (5), em-
22 ployed in a position at a rate of pay equal to or
23 greater than \$70,000 (adjusted for any COLA after
24 the date of enactment of the Ethics in Government
25 Reform Act of 1993)—

1 “(A) the restriction provided in paragraph
2 (1)(A) shall apply; and

3 “(B) the restricted period after termi-
4 nation in paragraph (2), (3), (4), or (5), appli-
5 cable to such person shall be 5 years.”.

6 (5) GOVERNMENTWIDE 1-YEAR COOLING OFF
7 PERIOD.—

8 (A) EXECUTIVE.—Subsection (c) of section
9 207 of title 18, United States Code, is amend-
10 ed—

11 (i) by amending the caption for such
12 subsection to read as follows: “(c) ONE-
13 YEAR RESTRICTION ON ALL OFFICERS
14 AND EMPLOYEES OF THE EXECUTIVE
15 BRANCH AND CERTAIN OTHER AGEN-
16 CIES.—”;

17 (ii) in paragraph (1) by striking “who
18 is referred to in paragraph (2)” and insert-
19 ing “who is subject to the restrictions con-
20 tained in subsection (a)(1)”;

21 (iii) by striking “(1) RESTRIC-
22 TIONS.—”; and

23 (iv) by striking paragraph (2).

24 (B) CONGRESS.—Section 207(e)(6)(A) of
25 title 18, United States Code, is amended by

1 striking paragraph (6) and redesignating para-
2 graph (7) as paragraph (6).

3 (b) PENALTIES.—

4 (1) FUTURE LOBBYING.—Section 216 of title
5 18, United States Code, is amended by adding at
6 the end thereof the following:

7 “(d) In addition to the penalties provided in sub-
8 sections (a), (b), and (c), the punishment for violations
9 of section 207 may include a prohibition on lobbying the
10 United States for a period of not to exceed 5 years for
11 each violation.”.

12 (2) USE OF PROFITS.—Section 216(b) of title
13 18, United States Code, is amended by adding after
14 the first sentence the following: “Any amount of
15 compensation recovered pursuant to the preceding
16 sentence for a violation of section 207 shall be de-
17 posited in the general fund of the Treasury to re-
18 duce the deficit.”.

19 **SEC. 3. EFFECTIVE DATE.**

20 The restrictions contained in section 207 of title 18,
21 United States Code, as added by section 2 of this Act—

22 (1) shall apply only to persons whose service as
23 officers or employees of the Government, or as Mem-
24 bers of Congress terminates on or after the date of
25 the enactment of this Act; and

1 (2) in the case of officers, employees, and Mem-
2 bers of Congress described in section 207(b)(1)(B)
3 of title 18, United States Code (as added by section
4 2 of this Act), shall apply only with respect to par-
5 ticipation in trade negotiations or treaty negotia-
6 tions, and with respect to access to information, oc-
7 curring on or after such date of enactment.

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